

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SHEILA MARIE EYAJAN,
Plaintiff,

v.

NESCO RESOURCE,
Defendant.

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C.A. No. 18-222 Erie

**District Judge Susan Paradise Baxter
Magistrate Judge Richard A. Lanzillo**

MEMORANDUM ORDER

On August 10, 2018, this action was commenced by Plaintiff's filing of a *pro se* complaint under the Americans with Disabilities Act ("ADA"), against Plaintiff's former employer, Nesco Resource. On September 25, 2018, this matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. The case was subsequently reassigned to the undersigned, as presiding judge, on January 10, 2019, with Judge Lanzillo remaining as the referred Magistrate Judge for all pretrial proceedings.

On January 23, 2019, Defendant filed a motion for judgment on the pleadings [ECF No. 33], arguing that Plaintiff's complaint fails to state a claim upon which relief can be granted and is barred by the doctrines of *res judicata* and/or collateral estoppel, in any event.

On July 23, 2019, Magistrate Judge Lanzillo issued a report and recommendation ("R&R") recommending that Defendant's motion for judgment on the pleadings be granted on the dual bases of failure to state a claim under the ADA, and the bar of *res judicata* [ECF No.

46]. As to the first basis, Judge Lanzillo recommends dismissal without prejudice to Plaintiff's right to file an amended complaint to cure pleading deficiencies; however, as to the second basis of *res judicata*, Judge Lanzillo recommends dismissal with prejudice, as any amendment would be futile. On August 6, 2019, Plaintiff filed timely Objections to the R&R [ECF No. 47], to which Defendant has filed a response [ECF No. 48].

Upon review of Plaintiff's Objections, it is apparent that Plaintiff has failed to raise any meaningful substantive challenge to the Magistrate Judge's legal or factual findings supporting his recommendations.¹ Thus, after de novo review of the complaint, together with the report and recommendation and objections filed in this case, the following order is entered:

AND NOW, this 27th day of September, 2019;

IT IS HEREBY ORDERED that Defendant's motion for judgment on the pleadings is GRANTED, both on the grounds of failure to state a claim upon which relief may be granted, and the bar of *res judicata*, and that this case is DISMISSED, with prejudice. The report and recommendation of Magistrate Judge Lanzillo, issued July 23, 2019 [ECF No. 46], is adopted as the opinion of the Court.

The Clerk is directed to mark this case CLOSED,


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
United States Magistrate Judge